



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2466

FEB 17 1995

Ref: 8WM-DW

Mr. Dennis Hemmer  
Director,  
Wyoming Department of  
Environmental Quality  
Herschler Building  
122 West 25th Street  
Cheyenne, Wyoming 82002

RE: Approval of UIC Program  
revision request

Dear Mr. Hemmer:

On February 1, 1995, EPA received from the Wyoming Department of Environmental Quality (DEQ) a request for final approval for revision to its Underground Injection Control (UIC) program for an in-situ coal gasification project aquifer exemption. As required by the Memorandum of Agreement between the State and EPA, dated April 26, 1983, the State also submitted copies of the public notice, the public comments received pertaining to the notice, and the State's response to those comments. The DEQ determined that no hearing was necessary.

EPA concurs with the State's determination reclassifying the groundwater to Class V Mineral Commercial groundwater (see DEQ Water Quality Rules Chapter VIII Section 4(d)(viii)(B)), for the area defined in the Public notice.

It appears from this case however, that certain Wyoming UIC regulations may be less stringent than their Federal counterparts.

As part of its oversight responsibilities under the Safe Drinking Water Act, EPA evaluates circumstances and events pertaining to the States' implementation of delegated programs. In accordance with 40 CFR §145.32(a), if EPA determines that an approved State program no longer meets all Federal requirements, it may require an amendment of that program.

The Wyoming regulations presently do not appear to contain public participation procedures for research and development licenses for Class III injection wells. If this is correct, the Wyoming UIC Program is inconsistent with Federal requirements for public participation under 40 CFR §124.10, which applies to 40 CFR §145 Subpart B-Requirements for State programs. Federal regulations at 40 CFR §144.1(f)(3), state, "The public



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participation requirements that must be met by UIC Programs, whether administered by the State or by EPA, are set forth in Part 124. EPA must comply with all Part 124 requirements; State administered programs must comply with Part 124 as required by Part 145."

Thus, pursuant to 40 CFR §145.11, I am requesting that if you elect to modify the current State program to include the opportunity for public participation in the issuance of R&D licenses, please submit within 60 days of receipt of this letter either proposed written program revisions or a description of revisions to be proposed. I understand that a draft of in-situ mining regulation revisions was reviewed by EPA in October 1994, but that further revisions to these regulations have not yet been completed.

In the event you decide not to modify the State's existing program regarding public participation in the R&D license process, I am requesting that, within the same 60-day period, you submit a written statement clarifying your interpretation of the State UIC Program rules for public participation requirement for research and development licenses.

In either case, the submittal will be processed as an amendment of the State program and must be accompanied by a time table for adoption and implementation consistent with established legislative and/or administrative procedures. All submittals should be directed to EPA Region VIII Water Management Division offices.

If you have any questions please call, or have your staff contact Dan Jackson of my staff at (303) 294-7615.

Sincerely,



Max H. Dodson  
Director  
Water Management Division

cc: W. Garland, Administrator, WY DEQ WQD

BCC: JIM EPPERS, 8ORC  
DAN JACKSON, 8WM-DW-UICP&E